

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.5063 of 2010

ORDER:

The present Civil Revision Petition is filed under Article 227 of the Constitution of India, aggrieved by the order dated 19.07.2010 passed in I.A.No.1443 of 2007 in I.A.No.1827 of 1998 in O.S.No.56 of 1967 on the file of Principal Senior Civil Judge, Vijayawada, wherein the petition filed for redistribution of shares of the property in terms of Section 6 of Hindu Succession Act was rejected.

The facts of the case are as under:

One Uppaluri Dasaradha Ramaiah, S/o. Late Uppaluri Venkata Krishnaiah filed O.S.No.56 of 1967 against the other sons and daughters. Pending said suit, the A.P.Government passed A.P.Act No.13 of 1986 conferring rights on daughter in Hindu Joint Family properties with effect from 05.09.1985. After contesting the suit, the Court passed a preliminary decree dated 29.12.1980, against which the plaintiff in the suit preferred an appeal in A.S.No.2524 of 1984. As per the terms of the preliminary decree even the admitted shares of daughters would not be given to them and as such the daughters filed an appeal vide A.S.No.258 of 1981. All the matters were heard by this Court which were dismissed vide order dated 31.12.1992. Aggrieved thereby, the daughters preferred S.L.P.No.1554 of 1997 before the Hon'ble Supreme Court which was also dismissed on 21.11.1997. Subsequently, the plaintiff filed I.A.No.1827 of 1998 before the lower Court praying for final decree in terms of the preliminary decree and the petitioner

sought for redistribution of shares of the parties in terms of Section 6 of the Hindu Succession Act, as amended by Central Amendment Act 39 of 2005. The said I.A. was dismissed on the ground that that Amended Act is not affected or invalidate in disposition or alienation including any partition or testamentary dispossession of properties which took place before 20.12.2004. Hence, the present revision is filed.

At the time when the matter is taken up for hearing, learned counsel for the petitioner submits that in view of the judgment of this Court in ***Prakash and others Vs. Phulavati and others***^[1], nothing survives for adjudication in the present case. Even as per ***Ganduri Koteswaramma and another Vs. Chakiri Yanadi and another***^[2], the Hon'ble Supreme Court pointed out that it is not applicable to the case on hand as the Kartha of the family died prior to amendment.

The Apex Court while dealing with the similar circumstances of the case in ***Prakash and others Vs. Phulavati and others (supra)*** held as under:

“...accordingly, we hold that the rights under the amendment are application to living daughters of living coparceners as on 09.09.2005 irrespective of when such daughters are born. Disposition or alienation including partitions which may have taken place before 20.12.2004 as per law applicable prior to the said date will remain unaffected”.

In the instant case, the father of the petitioner died in the year 1963 itself.

In view of the judgments referred to above and having regard to the facts in issue, I see no reason merits in the

revision and the order passed by the lower Court warrants no interference by this Court.

Accordingly, the Civil Revision Petition is dismissed.

There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall also stand dismissed.

C. PRAVEEN KUMAR, J

13.04.2016

vhb

[\[1\]](#) 2015(6) ALT 34(SC)

[\[2\]](#) AIR 2012 SC 169